

§ 204.58

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paragraphs (a) (1) and (2) of this section.

(4) In lieu of paragraphs (a) (1) and (2) of this section, the Administrator will permit the cessation of continued testing under §204.57-8 with respect to any subgroup of a nonconforming category or configuration if the manufacturer demonstrates to the satisfaction of the Administrator that such subgroup does not exhibit the cause of the nonconformity of such category or configuration.

(b) Any compressor failing the prescribed noise emission tests conducted pursuant to this Subpart B may not be distributed in commerce until necessary adjustments or repairs have been made and the compressor passes a retest.

(c) No compressors of a rejected batch which are still in the hands of the manufacturer may be distributed in commerce unless the manufacturer has demonstrated to the satisfaction of the Administrator that such compressors do, in fact, conform to the regulations; except, that any compressor that has been tested and does, in fact, conform with these regulations may be distributed in commerce.

(Secs. 6, 10, 13, Pub. L. 92-574 (42 U.S.C. 4909 and 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 61455, Dec. 5, 1977; 47 FR 57712, Dec. 28, 1982]

§ 204.58 In-use requirements.

§ 204.58-1 Warranty.

(a) The portable air compressor manufacturer shall include in the owner's manual or in other information supplied to the ultimate purchaser, the following statement:

NOISE EMISSIONS WARRANTY

The manufacturer warrants to the ultimate purchaser and each subsequent purchaser that this air compressor was designed, built, and equipped to conform at the time of sale to the first retail purchaser, with all applicable U.S. E.P.A. noise control regulations.

This warranty is not limited to any particular part, component, or system of the air compressor. Defects in the design, assembly, or in any part, component, or system of the compressor which, at the time of sale to the

first retail purchaser, caused noise emissions to exceed Federal standards are covered by this warranty for the life of the air compressor.

(b) [Reserved]

(Secs. 6 and 13, Noise Control Act, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 47 FR 57712, Dec. 28, 1982]

§ 204.58-2 Tampering.

(a) For each configuration of air compressors covered by this part, the manufacturer shall develop a list of those acts which, in his judgment, might be done to the air compressor in use and which would constitute the removal or rendering inoperative of noise control devices or elements of design of the compressor.

(b) The manufacturer shall include in the owner's manual the following information:

(1) The statement:

TAMPERING WITH NOISE CONTROL SYSTEM PROHIBITED

Federal law prohibits the following acts or the causing thereof:

(1) The removal or rendering inoperative by any persons, other than for purposes of maintenance, repair, or replacement, of any devices or element of design incorporated into any new compressor for the purpose of noise control prior to its sale or delivery to the ultimate purchaser or while it is in use; or (2) the use of the compressor after such device or element of design has been removed or rendered inoperative by any person.

(2) The statement:

Among those acts included in the prohibition against tampering are the acts listed below.

Immediately following this statement, the manufacturer shall include the list developed under paragraph (a) of this section.

(c) Any act included in the list prepared pursuant to paragraph (a) of this section is presumed to constitute tampering; however, in any case in which a proscribed act has been committed and it can be shown that such act resulted in no increase in the sound level of the compressor or that the compressor still meets the noise emission standard of